

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEYANIRA ESPINAL, ANGELA BERISE:
PERALTA FRITMAN AND MARIA ARECELI:
GONZALES FLORES, :

04 CV 3594
Judge Griesa

Plaintiffs, :

-against- :

**ANSWER
TO
COMPLAINT**

RAMCO GENERAL STORES, INC., d/b/a:
RAMCO and/or NATIONAL DISCOUNT STORE;:
RAMCO GENERAL STORE, INC. 2 d/b/a:
RAMCO and/or NATIONAL DISCOUNT STORE;:
and ALBERT PALACCI, :

Defendants. :

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Defendants, RAMCO GENERAL STORES, INC., d/b/a RAMCO and/or NATIONAL
DISCOUNT STORE; RAMCO GENERAL STORE, INC. 2 d/b/a RAMCO and/or NATIONAL
DISCOUNT STORE; and ALBERT PALACCI, by their attorneys, Wilson, Elser, Moskowitz,
Edelman and Dicker LLP, as and for their Answer to Plaintiffs' Complaint allege as follows:

PRELIMINARY STATEMENT

1. Deny each and every allegation contained in paragraph "1" of the Complaint.
2. Deny each and every allegation contained in paragraph "2 of the Complaint.
3. Deny each and every allegation contained in paragraph "3" of the Complaint.
4. Deny that defendants committed the violations alleged but admit that Plaintiffs
have filed charges of discrimination with the Equal Employment Opportunity Commission
(EEOC).

JURISDICTION AND VENUE

5. Deny the allegations contained in paragraph “5” and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

6. Admit, upon information and belief, the allegations contained in paragraph “6” of the Complaint.

7. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “7” and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

THE PARTIES

Plaintiffs

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “8” of the Complaint.

9. Deny each and every allegation contained in paragraph “9” of the Complaint, except admit, upon information and belief, that plaintiff was employed by Ramco.

10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “10” of the Complaint.

11. Deny each and every allegation contained in paragraph “11” of the Complaint, except admit, upon information and belief, that plaintiff was employed by Ramco.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “12” of the Complaint.

13. Deny each and every allegation contained in paragraph “13” of the Complaint, except admit, upon information and belief, that plaintiff was employed by Ramco.

Defendants

14. Admit each and every allegation contained in paragraph “14” of the Complaint.
15. Admit each and every allegation contained in paragraph “15” of the Complaint.
16. Admit each and every allegation contained in paragraph “16” of the Complaint.
17. Admit each and every allegation contained in paragraph “17” of the Complaint.
18. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “18 of the Complaint.
19. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “19” of the Complaint.
20. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “20” of the Complaint.
21. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “21” of the Complaint.
22. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “22” except admit, upon information and belief, that defendant Palacci is the sole shareholder of the Corporate Defendants, and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.
23. Admit each and every allegation contained in paragraph “23” of the Complaint.
24. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “24” of the Complaint, and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

25. Admit the allegations contained in paragraph “25” of the Complaint.

26. Admit the allegations contained in paragraph “26” of the Complaint.

27. Deny each and every allegation contained in paragraph “27” of the Complaint, except admit, upon information and belief, that the Corporate Defendants operate retail stores at 190-192 Dyckman Street.

28. Deny that Defendant, Palacci, owns and operates several buildings in and around New York City but admit that Palacci has real estate interests.

29. Deny each and every allegation contained in paragraph “29” of the Complaint.

30. Deny each and every allegation contained in paragraph “30” of the Complaint.

31. Deny each and every allegation contained in paragraph “31” of the Complaint.

INDIVIDUAL FACTUAL ALLEGATIONS

Plaintiff Deyanira Espinal

A. Background, Duties and Compensation

32. Deny each and every allegation contained in paragraph “32” of the Complaint, except admit, upon information and belief, that plaintiff was employed by Ramco.

33. Admit the allegations contained in paragraph “33” of the Complaint.

34. Deny each and every allegation contained in paragraph “34” of the Complaint.

35. Admit the allegations contained in paragraph “35” of the Complaint.

36. Defendants neither admit nor deny the allegations in paragraph “36” of the Complaint. Defendants assert their Fifth Amendment privilege with respect to such allegations.

B. Sexual Harassment

37. Deny each and every allegation contained in paragraph “37” of the Complaint.

38. Deny each and every allegation contained in paragraph “38” of the Complaint.

C. Working Conditions

39. Deny each and every allegation contained in paragraph “39” of the Complaint.

40. Deny each and every allegation contained in paragraph “40” of the Complaint.

41. Deny each and every allegation contained in paragraph “41” of the Complaint.

42. Deny each and every allegation contained in paragraph “42” of the Complaint.

43. Deny each and every allegation contained in paragraph “43” of the Complaint.

D. Termination

44. Deny each and every allegation contained in paragraph “44” of the Complaint.

Plaintiff Angela Berise Fritman Peralta

A. Background, Duties and Compensation

45. Deny each and every allegation contained in paragraph “45” of the Complaint, except admit, upon information and belief, that plaintiff was employed by Ramco.

46. Deny each and every allegation contained in paragraph “46” of the Complaint.

47. Defendants neither admit nor deny the allegations in paragraph “47” of the Complaint. Defendants assert their Fifth Amendment privilege with respect to such allegations.

48. Deny each and every allegation contained in paragraph “48” of the Complaint.

49. Defendants neither admit nor deny the allegations in paragraph “49” of the Complaint. Defendants assert their Fifth Amendment privilege with respect to such allegations.

B. Sexual Harassment

50. Deny each and every allegation contained in paragraph “50” of the Complaint.
51. Deny each and every allegation contained in paragraph “51” of the Complaint.

C. Working Conditions

52. Deny each and every allegation contained in paragraph “52” of the Complaint.
53. Deny each and every allegation contained in paragraph “53” of the Complaint.
54. Deny each and every allegation contained in paragraph “54” of the Complaint.

D. Constructive Discharge

55. Deny each and every allegation contained in paragraph “55” of the Complaint.
56. Deny each and every allegation contained in paragraph “56” of the Complaint.

Plaintiff Maria Araceli Gonzales Florees

A. Background, Duties and Compensation

57. Deny each and every allegation contained in paragraph “57” of the Complaint, except admit, upon information and belief, that plaintiff was employed by Ramco.
58. Admit the allegations contained in paragraph “58” of the Complaint.
59. Admit the allegations contained in paragraph “59” of the Complaint.
60. Deny each and every allegation contained in paragraph “60” of the Complaint.

61. Defendants neither admit nor deny the allegations in paragraph “61” of the Complaint. Defendants assert their Fifth Amendment privilege with respect to such allegations.

Sexual Harassment

62. Deny each and every allegation contained in paragraph “62” of the Complaint.
63. Deny each and every allegation contained in paragraph “63” of the Complaint.

C. Working Conditions

64. Deny each and every allegation contained in paragraph “64” of the Complaint.
65. Deny each and every allegation contained in paragraph “65” of the Complaint.

D. Constructive Discharge

66. Deny each and every allegation contained in paragraph “66” of the Complaint.
67. Deny each and every allegation contained in paragraph “67” of the Complaint.

COLLECTIVE ACTION ALLEGATIONS

68. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “68” and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

69. Deny each and every allegation contained in paragraph “69” of the Complaint.

70. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph “70” and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

71. Deny each and every allegation countered in paragraph “71” of the Complaint.

ANSWERING THE FIRST CAUSE OF ACTION

72. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "72" of the Complaint.

73. Deny each and every allegation contained in paragraph "73" of the Complaint.

74. Deny each and every allegation contained in paragraph "74" of the Complaint.

75. Deny each and every allegation contained in paragraph "75" of the Complaint.

76. Admit, upon information and belief, the allegations contained in paragraph "76" of the Complaint.

77. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph "77" and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

78. Deny knowledge or information sufficient upon which to form a belief as to the truth of the allegations contained in paragraph "78" and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

79. Deny each and every allegation contained in paragraph "79" of the Complaint.

80. Deny each and every allegation contained in paragraph "80" of the Complaint.

81. Deny the truth of the allegations contained in paragraph "81" and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

82. Deny each and every allegation contained in paragraph "82" of the Complaint.

83. Deny each and every allegation contained in paragraph "83" of the Complaint.

84. Deny each and every allegation contained in paragraph "84" of the Complaint.

ANSWERING THE SECOND CAUSE OF ACTION

85. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "85" of the Complaint.

86. Deny each and every allegation contained in paragraph "86" of the Complaint and respectfully refer all questions of law, fact or conclusions raised therein to the court for determination.

87. Deny the truth of the allegations contained in paragraph "87" of the Complaint.

88. Deny each and every allegation contained in paragraph "88" of the Complaint.

89. Deny each and every allegation contained in paragraph "89" of the Complaint.

90. Deny each and every allegation contained in paragraph "90" of the Complaint.

91. Deny each and every allegation contained in paragraph "91" of the Complaint.

ANSWERING THE THIRD CAUSE OF ACTION

92. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "92" of the Complaint.

93. Deny each and every allegation contained in paragraph "93" of the Complaint.

94. Deny each and every allegation contained in paragraph "94" of the Complaint.

ANSWERING THE FOURTH CAUSE OF ACTION

95. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "95" of the Complaint.

96. Deny each and every allegation contained in paragraph "96" of the Complaint.

97. Deny each and every allegation contained in paragraph "97" of the Complaint.

98. Deny each and every allegation contained in paragraph "98" of the Complaint.

99. Deny each and every allegation contained in paragraph "99" of the Complaint.

100. Deny each and every allegation contained in paragraph “100” of the Complaint.

101. Deny each and every allegation contained in paragraph “101” of the Complaint.

ANSWERING THE FIFTH CAUSE OF ACTION

102. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "102” of the Complaint.

103. Deny each and every allegation contained in paragraph “103” of the Complaint.

104. Deny each and every allegation contained in paragraph “104” of the Complaint.

105. Deny each and every allegation contained in paragraph “105” of the Complaint.

106. Deny each and every allegation contained in paragraph “106” of the Complaint.

ANSWERING THE SIXTH CAUSE OF ACTION

107. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "107” of the Complaint.

108. Deny each and every allegation contained in paragraph “108” of the Complaint.

109. Deny each and every allegation contained in paragraph “109” of the Complaint.

110. Deny each and every allegation contained in paragraph “110” of the Complaint.

111. Deny each and every allegation contained in paragraph “111” of the Complaint.

112. Deny each and every allegation contained in paragraph “112” of the Complaint.

ANSWERING THE SEVENTH CAUSE OF ACTION

113. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "113” of the Complaint.

114. Deny each and every allegation contained in paragraph “114” of the Complaint.

115. Deny each and every allegation contained in paragraph “115” of the Complaint.

116. Deny each and every allegation contained in paragraph “116” of the Complaint.

117. Deny each and every allegation contained in paragraph “117” of the Complaint.

118. Deny each and every allegation contained in paragraph “118” of the Complaint.

119. Deny each and every allegation contained in paragraph “119” of the Complaint.

ANSWERING THE EIGHTH CAUSE OF ACTION

120. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "120" of the Complaint.

121. Deny each and every allegation contained in paragraph “121” of the Complaint.

NINTH CAUSE OF ACTION

122. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "122" of the Complaint.

123. Deny each and every allegation contained in paragraph “123” of the Complaint.

124. Deny each and every allegation contained in paragraph “124” of the Complaint.

ANSWERING THE TENTH CAUSE OF ACTION

125. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "125" of the Complaint.

126. Deny each and every allegation contained in paragraph “126” of the Complaint.

127. Deny each and every allegation contained in paragraph “127” of the Complaint.

128. Deny each and every allegation contained in paragraph “128” of the Complaint.

129. Deny each and every allegation contained in paragraph “129” of the Complaint.

ANSWERING THE ELEVENTH CAUSE OF ACTION

130. Defendants repeat and reiterate each and every admission or denial heretofore made though fully set forth herein and in response to paragraph "130" of the Complaint.

131. Deny each and every allegation contained in paragraph “131” of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

132. Plaintiffs have failed to exhaust their administrative remedies.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

133. The Fourth, Fifth and Sixth Causes of Action must be dismissed pursuant to the provisions of the N.Y. Executive Law § 297.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

134. The Fourth, Fifth, Sixth, Tenth and Eleventh Causes of Action fail to state a claim under which relief may be granted.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

135. The Court lacks subject matter jurisdiction over some or all of the claims set forth in the Complaint.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

136. Some or all of the claims set forth in the Complaint are barred by the applicable Statute of Limitations.

WHEREFORE, defendants demand judgment dismissing plaintiffs' Complaint, together with the costs and disbursements of this action.

Dated: White Plains, New York
July 6, 2004

Yours, etc.

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By: /s/ _____
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